

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

IN RE:

Tina Guider  
aka Tina Houston-Guider

Debtor

Case No.: 20-02010  
Chapter: 13  
Hearing Date: 1/15/2021  
Judge LaShonda A. Hunt

**NOTICE OF MOTION**

TO: Glenn B Stearns, Chapter 13 Trustee, 801 Warrenville Road Suite 650, Lisle, IL 60532 by electronic notice through ECF  
Tina Guider, Debtor, 16773 Hazelwood Drive, Plainfield, IL 60586  
David M Siegel, Attorney for Debtor, 790 Chaddick Drive, Wheeling, IL 60090 by electronic notice through ECF  
Office of U.S. Trustee, 219 S. Dearborn St., Room 873, Chicago, IL 60604 by electronic notice through ECF

PLEASE TAKE NOTICE that on 1/15/2021, at 10:15 AM, I will appear telephonically before the Honorable Judge LaShonda A. Hunt, or any judge sitting her place, and present the motion of Codilis & Associates, P.C. for The Bank of New York Mellon, F/K/A The Bank of New York as trustee for registered Holders of CWABS, Inc., Asset-Backed Certificates, Series 2004-5, a copy of which is attached.

**This motion will be presented and heard telephonically using AT&T Teleconference. No personal appearance in court is necessary or permitted. To appear and be heard telephonically on the motion, you must call in to the hearing using the following information - Toll Free Number: 1-888-557-8511; Access Code: 7490911.**

**If you object to this motion** and want it called on the presentment date above, you must file a Notice of Objection no later than two (2) business days before that date. If a Notice of Objection is timely filed, the motion will be called on the presentment date. If no Notice of Objection is timely filed, the court may grant the motion in advance without a hearing.

**PROOF OF SERVICE**

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed above, as to the Trustee and Debtor's attorney via electronic notice on January 7, 2021 and as to the debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on January 7, 2021.

/s/ Terri M. Long  
Attorney for Movant

Berton J. Maley ARDC#6209399  
Rachael A. Stokas ARDC#6276349  
Peter C. Bastianen ARDC#6244346  
Joel P. Fonferko ARDC#6276490  
Brenda Ann Likavec ARDC#6330036  
Terri M. Long ARDC#6196966  
**Codilis & Associates, P.C.**  
15W030 North Frontage Road, Suite 100  
Burr Ridge, IL 60527  
(630) 794-5300  
File No. 14-20-00946  
NOTE: This law firm is a debt collector.

**CERTIFICATE OF SERVICE**

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed below, as to the Trustee and Debtor's attorney via electronic notice on January 7, 2021 and as to the debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on January 7, 2021.

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Attorney for Movant

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**MOTION FOR RELIEF FROM THE AUTOMATIC STAY OR IN THE ALTERNATIVE  
TO DISMISS THE CASE FOR FAILURE TO MAKE PLAN PAYMENTS**

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**NOW COMES** The Bank of New York Mellon, F/K/A The Bank of New York as trustee for registered Holders of CWABS, Inc., Asset-Backed Certificates, Series 2004-5, (hereinafter "Movant"), by and through its attorneys, Codilis & Associates, P.C., and moves this Honorable Court pursuant to 11 U.S.C. §362(d) for an Order granting Movant relief from the automatic stay or alternatively, for entry of an order dismissing the case pursuant to 11 U.S.C. §1307, and in support thereof states as follows:

1. This Court has jurisdiction pursuant to 28 U.S.C. §1334 and Internal Operating Procedure 15(a) of the United States District Court for the Northern District of Illinois, Eastern Division;
2. The Debtor is indebted to Movant for which the Movant claims a valid security interest in the property commonly known as 16773 Hazelwood Dr, Plainfield, IL 60544;
3. Enforcement of this security interest has been stayed automatically by operation of 11 U.S.C. §362 of the Bankruptcy Code upon Debtor filing of this petition on 01/23/2020;
4. The Chapter 13 plan herein provides for the cure of the default of said mortgage and maintenance of current payments during the pendency of the proceeding;
5. Pursuant to the plan, Debtor is to disburse the current monthly mortgage payments directly to Movant beginning with the first payment due after the filing of the Chapter 13 Bankruptcy (subject to periodic adjustment due to change in escrow);

6. Movant is entitled to relief from the automatic stay under 11 U.S.C. Section 362(d) for the following reasons:

- a) As of 12/22/2020, the Debtor is past due for the 10/01/2020 payment, and all amounts coming due since that date. Any payments received after this date may not be reflected in this default;
- b) As of 12/22/2020, the total post-petition default through and including 12/01/2020, is \$5,024.44, which includes a suspense credit of \$31.68. Any payments received after this date may not be reflected in this default. This amount includes post-petition attorney fees in the amount of \$2,188.00;
- c) On 01/01/2021, the default increased, and will continue to increase as additional amounts become due;

7. Said failure to make post-petition mortgage payments is sufficient grounds for relief from the automatic stay for cause pursuant to 11 U.S.C. Section 362(d)(1);

8. That sufficient grounds exist to dismiss this proceeding under 11 U.S.C. §1307 as:

- a) Debtor's failure to timely pay post-petition mortgage payments as required under the plan and 11 U.S.C. §1322(b)(2) and (b)(5) constitutes an unreasonable delay that is prejudicial to moving creditor and the case should be dismissed under §1307(c)(1);
- b) Debtor's failure to timely pay post-petition mortgage payments as required under the plan and 11 U.S.C. §1322(b)(2) and (b)(5) constitutes "cause" and the case should be dismissed under the general provisions of 11 U.S.C. §1307;

- c) The default in post-petition mortgage payments constitutes a material default under paragraph C of the Chapter 13 plan and case should be dismissed under §1307(c)(6);

9. This Court has authority to order that Rule 4001(a)(3) is not applicable to the order entered in granting this motion, and Movant requests this Court so order;

10. Movant has incurred attorney fees and/or costs in connection with this bankruptcy proceeding:

\$300.00 for Plan Review

\$650.00 for Proof of Claim

\$1,050.00 for Preparation of Notice and Motion for Relief from the Automatic Stay, and prosecution of same

\$188.00 for Court filing fee

11. Carrington Mortgage Services, LLC services the loan on the Property referenced in this Motion. In the event the automatic stay in this case is modified, this case dismisses, and/or the Debtor obtains a discharge and a foreclosure action is commenced on the mortgaged property, the foreclosure will be conducted in the name of Movant. Movant, directly or through an agent, has possession of the promissory note. Movant will enforce the promissory note as transferee in possession. Movant is the original mortgagee or beneficiary or the assignee of the Mortgage.

**WHEREFORE,** The Bank of New York Mellon, F/K/A The Bank of New York as trustee for registered Holders of CWABS, Inc., Asset-Backed Certificates, Series 2004-5 prays this Court enter an Order pursuant to 11 U.S.C. Section 362(d) modifying the automatic stay as to Movant, or alternatively, for an entry of an order dismissing the case pursuant to 11 U.S.C. §1307, allowing the fees and costs described herein to be added to the indebtedness pursuant to the terms of the note and mortgage, and for such other and further relief as this Court may deem just and proper.

Dated this January 7, 2021.

Respectfully Submitted,

Codilis & Associates, P.C.

By: /s/ Terri M. Long

Berton J. Maley ARDC#6209399

Rachael A. Stokas ARDC#6276349

Peter C. Bastianen ARDC#6244346

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